

401 KAR 47:150. Special types of permits.

RELATES TO: KRS 224.01, 224.10, 224.40, 224.43, 224.99

STATUTORY AUTHORITY: KRS 224.10-100, 224.40-305

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 224 requires the cabinet to adopt rules and administrative regulations for the management, processing, and disposal of wastes. KRS 224.40-305 requires that persons engaging in the management, processing, and disposal of waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This administrative regulation sets forth the requirements for permits-by-rule; emergency permits; and research, development, and demonstration permits.

Section 1. Permit-by-rule. Notwithstanding any other provision of this chapter, the following Disposal of certain solid wastes by a practice common to the industry shall be deemed to have a permit-by-rule provided the operation is not in violation of the applicable environmental performance standards of 401 KAR 47:030, does not present a threat of imminent hazard to human health or substantial environmental impact and the following applicable conditions are met:

- (1) Sawdust piles if:
 - (a) The pile is on the property of the generator; and
 - (b) The pile does not cause nonpoint pollution of surface water above the water quality standard specified in 401 KAR 10:031.
- (2) Disposal of asphalt residue.
- (3) Oil production brine pits and gas and oil drilling mud pits, if the operator:
 - (a) Has a KPDES or NPDES permit; and
 - (b) Complies with the conditions of the KPDES or NPDES permit.
- (4) One (1) time disposal of waste construction material if:
 - (a) Disposal occurs at the point of generation;
 - (b) Disposal occurs only during the period of construction;
 - (c) The wastes do not include any materials that contain leachable hazardous constituents or asbestos; and
 - (d) The wastes do not include packaging or putrescible wastes.
- (5) Disposal of demolition waste on the property where demolition occurs during the period of demolition except for materials containing asbestos.
- (6) Disposal of land clearing debris on the property where clearing occurred.
- (7) Disposal of less than 100 tires, shredded tires in a single pile of less than one-fourth (1/4) acre, or tires actively used in agricultural operations.
- (8) Waste piles.
- (9) Automobile and truck recyclers and salvage yards.
- (10) Surface impoundments with a KPDES permit.
- (11) Beneficial reuse of solid waste.

Section 2. Emergency Permits. (1) Notwithstanding any other provision of this chapter, in the event the cabinet finds an imminent and substantial endangerment to human health or the environment, the cabinet may issue an emergency permit to allow temporary storage or disposal of solid waste for a nonpermitted facility, thus granting the nonpermitted facility an effective temporary solid waste site or facility permit. However, an emergency permit shall only be issued when the circumstances preclude the processing of a permit of appropriate classification, and the permitted site would not create an endangerment to human health or the environment. Such permits

may be for either temporary or permanent disposal.

(2) An emergency permit:

(a) Shall be oral or written. If oral, it shall be followed in five (5) days by a written emergency permit request;

(b) Shall not exceed ninety (90) days in duration;

(c) Shall clearly specify the solid wastes to be received, and the manner and location of treatment, storage, or disposal;

(d) May be unilaterally terminated by the cabinet at any time if the cabinet determines that termination is appropriate to protect human health or the environment;

(e) Shall incorporate to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter and 401 KAR Chapter 48;

(f) Shall specify that all remaining solid waste and residues are removed at the end of the term of the emergency permit to a properly permitted solid waste site or facility in order to be exempted from the technical and financial requirements of 401 KAR Chapter 48; and

(g) Shall specify that failure to comply with the conditions of the emergency permit shall be grounds for the cabinet to recover the cost of proper closure.

Section 3. Research, Development and Demonstration Permits. (1) The cabinet may issue a research, development and demonstration permit for any solid waste treatment or disposal facility which proposes to utilize an innovative and experimental solid waste technology or process for which permit standards for such experimental activity have not been promulgated under 401 KAR Chapter 48. Any permit shall include such terms and conditions as shall assure protection of human health and the environment. In issuing research, development and demonstration permits the cabinet shall:

(a) Provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one (1) year unless renewed as provided in subsection (4) of this section;

(b) Provide for the receipt, storage and disposal by the facility of only those types and quantities of solid waste that the cabinet deems necessary for purposes of determining the efficiency and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment; and

(c) Include such requirements as the cabinet deems necessary to protect human health and the environment including, but not limited to: monitoring, operation, financial responsibility, closure, remedial action, testing, and reporting.

(2) For the purpose of expediting review and issuance of permits under this section, the cabinet may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in 401 KAR Chapter 47 except that there may be no modification or waiver of provisions in KRS Chapter 224 regarding financial responsibility (including insurance) or of procedures regarding public notification.

(3) The cabinet may order an immediate termination of all operations at the facility at any time it is determined that termination is necessary to protect human health and the environment.

(4) Any permit issued under this section shall not be renewed more than three (3) times. Each such renewal shall be for a period of not more than one (1) year. (16 Ky.R. 1749; 2193; eff. 5-8-1990; TAm eff. 10-14-2008; Crt eff. 10-9-2018.)